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## 7.1 Requirements for Sending Abstract of Court Record to Secretary of State\*

The clerk of the Family Division is required to keep a full record of every case in which a person is charged with violating the Michigan Vehicle Code or a local ordinance substantially corresponding to a provision of the Michigan Vehicle Code. MCL 257.732(1); MSA 9.2432(1). The county clerk is the clerk of the court for the Family Division and keeps the records and indexes of actions. MCL 600.1007; MSA 27A.1007. See also MCR 8.105 (general duties of clerks).

The clerk of the court must send an abstract of the court record to the Secretary of State following a finding that the juvenile has committed certain traffic-related offenses.\* The abstract must be certified by signature, stamp, or facsimile signature to be true and correct, and it must contain the following information:

- “(a) The name, address, and date of birth of the person charged or cited.
- “(b) The number of the person’s operator’s or chauffeur’s license, if any.
- “(c) The date and nature of the violation.
- “(d) The type of vehicle driven at the time of the violation . . . .
- “(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.
- “(f) Whether bail was forfeited;
- “(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

\*See also Section 8.9 for a discussion of the effect of “taking matters under advisement” on the Secretary of State’s maintenance of accurate driving records.

\*MCL 257.732(15); MSA 9.2432(15), excludes non-moving violations from the abstracting requirements.

“(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

“(i) Other information considered necessary to the Secretary of State.”

MCL 257.732(3)(a)–(i); MSA 9.2432(3)(a)–(i). See also MCL 324.80131; MSA 13A.80131 (similar requirements for violations of the provisions governing off-road vehicles).

The time requirements for sending the required abstract vary according to the type of offense committed by the juvenile.

### **A. Time Requirements for Violations of the Michigan Vehicle Code and Other Criminal Traffic Offenses**

MCL 712A.2b(d); MSA 27.3178(598.2b)(d), and MCL 257.732(1)(a); MSA 9.2432(1)(a), require the court, within 14 days after entry of an order of disposition, to forward an abstract of the court record to the Secretary of State if the juvenile is found within the jurisdiction of the Family Division for violating the Michigan Vehicle Code or a local ordinance substantially corresponding to a provision of the Michigan Vehicle Code.

MCL 257.732(4); MSA 9.2432(4), requires the clerk to forward an abstract of the court record upon a person’s conviction of any of the following offenses or attempt to commit any of the following offenses:

- F unlawful driving away a motor vehicle, MCL 750.413; MSA 28.645;
- F unlawful use of an automobile, without intent to steal, MCL 750.414; MSA 28.646;
- F failure to obey a police or conservation officer’s direction to stop, MCL 750.479a; MSA 28.747(1);
- F felonious driving, MCL 752.191; MSA 28.661;
- F negligent homicide with a motor vehicle, MCL 750.324; MSA 28.556;
- F manslaughter with a motor vehicle, MCL 750.321; MSA 28.553;
- F murder with a motor vehicle, MCL 750.316; MSA 28.548 (first-degree murder), and MCL 750.317; MSA 28.549 (second-degree murder);
- F minor purchasing or attempting to purchase, consuming or attempting to consume, or possessing or attempting to possess alcoholic liquor, MCL 436.1703; MSA \_\_. \_\_, or a local ordinance substantially corresponding to this section; or
- F a controlled substance offense listed in MCL 333.7401–333.7461; MSA 14.15(7401)–14.15(7461), or MCL 333.17766a; MSA 14.15(17766a).

A “conviction” includes a juvenile court adjudication. See MCL 257.8a; MSA 9.1808(1).

MCL 257.732(8); MSA 9.2432(8), requires the clerk of the Family Division to forward an abstract of the court record to the Secretary of State where the offense for which the disposition is ordered is a “felony in which a motor vehicle was used.”\*

\*See Section 3.9 for a definition of this term.

## B. Time Requirements for Dismissal or Acquittal of “Drunk Driving” Offenses

In addition, the clerk must *immediately* forward an abstract of the record for each case charging a violation of MCL 257.625(1); MSA 9.2325(1) (driving under the influence of liquor and/or controlled substance), MCL 257.625(3); MSA 9.2325(3) (driving while visibly impaired), MCL 257.625(6); MSA 9.2325(6) (person under 21 driving with any bodily alcohol content), or MCL 257.625(7); MSA 9.2325(7) (“drunk driving” offense committed while person less than 16 years old was occupant or passenger), where the charge is dismissed or the juvenile is “acquitted.” MCL 257.732(1)(b); MSA 9.2432(1)(b).

## 7.2 Family Division Records of Criminal Traffic Violations May Not Be Expunged

MCR 5.925(E)(1)(a) defines “expunge” as “to obliterate or destroy.” The Family Division may at any time for good cause expunge its own files and records pertaining to an offense by a minor other than an adjudication of a criminal traffic violation. MCR 5.925(E)(2)(a) and MCR 5.925(E)(3)(a).

Placement on the consent calendar of a case involving a criminal violation of the Michigan Vehicle Code is permissible even though MCR 5.925(E)(2)(a) and 5.925(E)(3)(a) prohibit expungement of criminal traffic violations from a juvenile’s record. *In re Neubeck*, 223 Mich App 568, 570–75 (1997). In *Neubeck*, the Court of Appeals declined to address the prosecuting attorney’s assertion that the trial court had in place a policy that allowed for destruction of court records following successful completion of consent probation. *Id.*, at 573–74.

**Note:** Former MCR 5.913 provided:

“The court may retain a child’s juvenile court delinquency records other than those involving motor vehicle violations until the child is 27, when they must be expunged. The court may retain a child’s motor vehicle violation citations and summonses until the child is 19, when they must be expunged.”

Effective January 1, 1988, former rule MCR 5.913 was superseded by MCR 5.925(E), and delinquency records may now be retained until age 30, with certain exceptions for “life offenses.” Motor vehicle violation citations are never expunged.

Offenders who had pre-1988 juvenile records and who believe that their offenses will be expunged at age 27 are chagrined to learn that MCR 5.925 now controls record expungement, and that the restrictions of MCR 5.925(E) now make criminal traffic violations permanent records of the court.

### 7.3 Expunging Juvenile Diversion Records

MCR 5.925(E)(2)(b) states that the court must expunge the diversion record of a juvenile within 28 days after the juvenile reaches 17 years of age.\*

### 7.4 Juvenile Adjudications for Criminal Traffic Violations May Not Be Set Aside

MCR 5.925(E)(1)(b) states that “set aside” means to “negate or rescind.” MCL 712A.18e(2)(b); MSA 27.3178(598.18e)(b), and MCR 5.925(E)(3)(a) provide that a person shall not apply to have set aside, and the court shall not set aside, an adjudication for an offense which if committed by an adult would be a criminal traffic violation.\*

\*See Sections 4.8–4.15 for a detailed discussion of the use of the Juvenile Diversion Act.

\*Note that for the offense of unlawfully driving away an automobile or attempted UDAA only, an adjudication must be set aside if the applicant follows all of the requirements of §18e of the Juvenile Code. The court must order the fingerprinting of juveniles charged with these offenses. See MCL 28.243(1); MSA 4.463(1).